

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JOSHUA M. SCOTT, trustee of the
Winona Road Trust u/t/d July 24, 2020,

Plaintiff,

v.

MCI COMMUNICATION SERVICES,
INC., a Delaware corporation, dba
VERIZON BUSINESS SERVICES,

Defendant.

Case No. 1:20-cv-01626-CL

ORDER

MCSHANE, Judge:

Magistrate Judge Mark D. Clarke filed a Findings and Recommendation (ECF No. 80), and the matter is now before this Court on Plaintiff's objections. *See* 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). I review *de novo*. *United States v. Bernhardt*, 840 F.2d 1441, 1445 (9th Cir. 1998). I find no error and conclude the report is correct.

Magistrate Judge Clarke's Findings and Recommendation (ECF No. 80) is adopted in full, including the specifications provided in the Order and Clarification (ECF No. 100).

Defendant's Motion for Summary Judgment (ECF No. 43) is GRANTED. Plaintiff's Motion for Partial Summary Judgment (ECF No. 49) is DENIED.

Defendant is entitled to summary judgment as to Plaintiff's claims for breach of the Settlement Agreement, trespass, and injunctive relief, as well as Defendant's counterclaims for breach of the Lease and breach of the Settlement Agreement, trespass, and injunctive relief, as well as Verizon's counterclaims for breach of the Lease and breach of the Settlement, breach of the implied duty of good faith and fair dealing, and declaratory relief. The Court declares:

1. Defendant is entitled to access and utilize the Pacific Power right-of-way for purposes of the Removal and Restoration Project by virtue of the Lease and the Settlement Agreement;
2. Defendant is entitled to all necessary access to the Property in order to complete the Removal and Restoration Project by virtue of the Lease and the Settlement Agreement.

Defendant has thirty days to file a notice stating its intent to pursue the final two remaining claims for conversion and injunctive relief or move to dismiss those claims.

IT IS SO ORDERED.

DATED this 31st day of March, 2022.

/s/ Michael J. McShane
Michael McShane
United States District Judge